

AMENDMENTS TO LB1098

(Amendments to Standing Committee amendments, AM2594)

Introduced by Carlson

1 1. Strike sections 3 to 6 and insert the following new
2 sections:

3 Sec. 3. (1) The goals of the Water Sustainability
4 Fund are to: (a) Provide financial assistance to programs,
5 projects, or activities that increase aquifer recharge, reduce
6 aquifer depletion, and increase stream flow; (b) remediate or
7 mitigate threats to drinking water; (c) promote the goals and
8 objectives of approved integrated management plans or ground
9 water management plans; (d) contribute to multiple water supply
10 management goals including flood control, reducing threats to
11 property damage, agricultural uses, municipal and industrial
12 uses, recreational benefits, wildlife habitat, conservation, and
13 preservation of water resources; (e) assist municipalities with the
14 cost of constructing, upgrading, developing, and replacing sewer
15 infrastructure facilities as part of a combined sewer overflow
16 project; (f) provide increased water productivity and enhance water
17 quality; (g) use the most cost-effective solutions available; and
18 (h) comply with interstate compacts, decrees, other state contracts
19 and agreements and federal law.

20 (2) The Legislature finds that the goals of the Water
21 Sustainability Fund can be met by equally considering programs,
22 projects, or activities in the following categories: (a) Research,

1 data, and modeling; (b) rehabilitation or restoration of water
2 supply infrastructure, new water supply infrastructure, or
3 water supply infrastructure maintenance or flood prevention for
4 protection of critical infrastructure; (c) conjunctive management,
5 storage, and integrated management of ground water and surface
6 water; and (d) compliance with interstate compacts or agreements or
7 other formal state contracts or agreements or federal law.

8 Sec. 4. (1) It is the intent of the Legislature that
9 the Water Sustainability Fund be equitably distributed statewide
10 to the greatest extent possible for the long term and give
11 priority funding status to projects which are the result of federal
12 mandates.

13 (2) Distributions to assist municipalities with the
14 cost of constructing, upgrading, developing, and replacing sewer
15 infrastructure facilities as part of a combined sewer overflow
16 project shall be based on a demonstration of need and shall
17 equal ten percent of the total annual appropriation to the
18 Water Sustainability Fund if (a) applicants have applied for
19 such funding as required under section 6 of this act and (b) any
20 such application has been recommended for further consideration by
21 the director and is subsequently approved for allocation by the
22 commission pursuant to subsection (1) of section 8 of this act. If
23 more than one municipality demonstrates a need for funds pursuant
24 to this subsection, funds shall be distributed proportionally based
25 on population.

26 (3) Any money in the Water Sustainability Fund may
27 be allocated by the commission to applicants in accordance with

1 sections 3 to 10 of this act. Such money may be allocated in
2 the form of grants or loans for water sustainability programs,
3 projects, or activities undertaken within the state. The allocation
4 of funds to a program, project, or activity in one form shall not
5 of itself preclude additional allocations in the same or any other
6 form to the same program, project, or activity.

7 (4) A natural resources district is eligible for funding
8 from the Water Sustainability Fund only if the district has adopted
9 or is currently participating in the development of an integrated
10 management plan pursuant to subdivision (1)(a) or (b) or section
11 46-715.

12 (5) The commission shall utilize the resources and
13 expertise of, and collaborate with the Department of Natural
14 Resources, the University of Nebraska, the Department of
15 Environmental Quality, the Nebraska Environmental Trust Board, and
16 the Game and Parks Commission on funding and planning for water
17 programs, projects, or activities.

18 (6) A biennial report shall be made to the Clerk of
19 the Legislature describing the work accomplished by the use of
20 funds towards the goals of the Water Sustainability Fund beginning
21 on December 31, 2015. The report submitted to the Clerk of the
22 Legislature shall be submitted electronically.

23 Sec. 5. The commission shall rank and score applications
24 for funding based on criteria that demonstrates the extent to which
25 a program, project, or activity:

26 (1) Remediates or mitigates threats to drinking water;

27 (2) Meets the goals and objectives of an approved

1 integrated management plan or ground water management plan;

2 (3) Contributes to water sustainability goals by
3 increasing aquifer recharge, reducing aquifer depletion, or
4 increasing streamflow;

5 (4) Contributes to multiple water supply management
6 goals, including, but not limited to, flood control, agricultural
7 use, municipal and industrial uses, recreational benefits, wildlife
8 habitat, conservation of water resources, and preservation of water
9 resources;

10 (5) Maximizes the beneficial use of Nebraska's water
11 resources for the benefit of the state's residents;

12 (6) Is cost-effective;

13 (7) Helps the state meet its obligations under interstate
14 compacts, decrees, or other state contracts or agreements or
15 federal law;

16 (8) Reduces threats to property damage or protects
17 critical infrastructure that consists of the physical assets,
18 systems, and networks vital to the state or the United States
19 such that their incapacitation would have a debilitating effect on
20 public security or public health and safety;

21 (9) Improves water quality;

22 (10) Has utilized all available funding resources of the
23 local jurisdiction to support the program, project, or activity;

24 (11) Has a local jurisdiction with plans in place that
25 support sustainable water use;

26 (12) Addresses a statewide problem or issue;

27 (13) Contributes to the state's ability to leverage state

1 dollars with local or federal government partners or other partners
2 to maximize the use of its resources;

3 (14) Contributes to watershed health and function; and

4 (15) Uses objectives described in the annual report and
5 plan of work for the state water planning and review process issued
6 by the department.

7 Sec. 6. (1) Applicants for funds may file an application
8 with the department for a grant or loan from the Water
9 Sustainability Fund. Applications for grants to the department
10 itself shall be filed by the department. Each application
11 shall be filed in such manner and form and be accompanied by
12 such information as may be prescribed by the director and the
13 commission.

14 (2) Any such application shall:

15 (a) Describe the nature and purpose of the proposed
16 program, project, or activity;

17 (b) Set forth or be accompanied by a plan for
18 development of the proposed program, project, or activity,
19 together with engineering, economic, and financial feasibility
20 data and information, and such estimated costs of construction
21 or implementation as may be required by the director and the
22 commission;

23 (c) State whether money other than that for which the
24 application is made will be used to help in meeting program,
25 project, or activity costs and whether such money is available or
26 has been sought for this purpose;

27 (d) When appropriate, state that the applicant holds or

1 can acquire title to all lands or has the necessary easements and
2 rights-of-way for the program, project, or activity and related
3 lands and has or may acquire all water rights necessary for the
4 proposed program, project, or activity;

5 (e) Show that the applicant possesses all necessary
6 authority to undertake or participate in the proposed program,
7 project, or activity; and

8 (f) Demonstrate the probable environmental and ecological
9 consequences that may result from such proposed program, project,
10 or activity.

11 (3) Upon receipt of an application, the director shall
12 evaluate and investigate all aspects of the proposed program,
13 project, or activity and the proposed schedule for development
14 and completion of such program, project, or activity, determine
15 eligibility for funding, and make appropriate recommendations to
16 the commission pursuant to sections 3 to 10 of this act. As a part
17 of his or her investigation, the director shall consider whether
18 the plan for development of the program, project, or activity
19 is satisfactory. If the director determines that the plan is
20 unsatisfactory or that the application does not contain adequate
21 information upon which to make determinations, the director shall
22 return the application to the applicant and may make such
23 recommendations to the applicant as are considered necessary to
24 make the plan or the application satisfactory.

25 (4) Requests for utilization of the Water Sustainability
26 Fund for state participation in any water and related land-water
27 resources projects shall also be filed with the department for

1 the director's evaluation, investigation, and recommendations. Such
2 requests shall be filed in the manner and form and be accompanied
3 by such information as shall be prescribed by the department and
4 the commission.

5 Sec. 7. (1) Each program, project, or activity for which
6 funding is requested, whether such request has as its origin
7 an application or the action of the department itself, shall be
8 reviewed as provided in sections 3 to 10 of this act by the
9 director prior to the approval of any allocation for such program,
10 project, or activity by the commission.

11 (2) The director may recommend approval of and the
12 commission may approve grants or loans, including the appropriate
13 repayment period and the rate of interest, for program, project, or
14 activity costs or acquisition of interests in programs, projects,
15 or activities if after investigation and evaluation the director
16 finds that:

17 (a) The plan does not conflict with any existing Nebraska
18 state land plan;

19 (b) The proposed program, project, or activity is
20 economically and financially feasible based upon standards adopted
21 by the commission pursuant to sections 3 to 10 of this act;

22 (c) The plan for development of the proposed program,
23 project, or activity is satisfactory;

24 (d) The plan of development minimizes any adverse impacts
25 on the natural environment;

26 (e) The applicant is qualified, responsible, and legally
27 capable of carrying out the program, project, or activity;

1 (f) In the case of a loan, the borrower has demonstrated
2 the ability to repay the loan and there is assurance of adequate
3 operation, maintenance, and replacement during the repayment life
4 of the program, project, or activity;

5 (g) The plan considers other plans and programs of the
6 state and resources development plans of the political subdivisions
7 of the state; and

8 (h) The money required from the Water Sustainability Fund
9 is available.

10 (3) The director and staff of the department shall carry
11 out their powers and duties under sections 3 to 10 of this act
12 independently of and without prejudice to their powers and duties
13 under other provisions of law.

14 (4) No member of the commission shall be eligible
15 to participate in the action of the commission concerning an
16 application for funding to any entity in which such commission
17 member has any interest. The director may be delegated additional
18 responsibilities consistent with the purposes of sections 3 to 10.
19 It shall be the sole responsibility of the commission to determine
20 the priority in which funds are allocated for eligible programs,
21 projects, or activities under section 5 of this act.

22 Sec. 8. (1) The director shall make recommendations based
23 upon his or her review of the criteria set forth in section 7 of
24 this act of whether an application should be considered further or
25 rejected and the form of allocation he or she deems appropriate.
26 The commission shall act in accordance with such recommendations
27 according to the application procedures adopted and promulgated in

1 rules and regulations.

2 (2) If, after review of the recommendation by the
3 director, the commission determines that an application for a
4 grant, loan, acquisition of an interest, or combination thereof
5 pursuant to sections 3 to 10 of this act is satisfactory and
6 qualified to be approved, before the final approval of such
7 application may be given and the funds allocated, the department
8 shall enter into an agreement in the name of the state with the
9 applicant agency or organization and with any other organizations
10 it deems to be involved in the program, project, or activity to
11 which funds shall be applied. The department shall also enter into
12 such agreements as are appropriate before allocation of any funds
13 for the acquisition of interest in any qualified program, project,
14 or activity when such acquisition is initiated by the department
15 itself pursuant to section 9 of this act. All agreements entered
16 into pursuant to this section shall include, but not be limited
17 to, a specification of the amount of funds involved, whether the
18 funds are considered as a grant, loan, or for the acquisition of
19 an interest in the name of the state, and, if a combination of
20 these is involved, the amount of funds allocated to each category,
21 the specific purpose for which the allocation is made, the terms
22 of administration of the allocated funds, and any penalties to be
23 imposed upon the applicant organization should it fail to apply or
24 repay the funds in accordance with the agreement.

25 (3) If the allocation to be approved is a loan, the
26 department and the applicant or applicants shall include in the
27 agreement provisions for repayment to the Water Sustainability Fund

1 of money loaned together with any interest at reasonable rates as
2 established by the commission. The agreement shall further provide
3 that repayment of the loan together with any interest thereon
4 shall commence no later than one full year after construction
5 of the project or implementation of the program or activity is
6 completed and that repayment shall be completed within the time
7 period specified by the commission. The repayment period shall
8 not exceed fifty years, except that the commission may extend the
9 time for making repayment in the event of extreme emergency or
10 hardship. Such agreement shall also provide for such assurances
11 of and security for repayment of the loan as shall be considered
12 necessary by the department.

13 (4) With the express approval of the commission, an
14 applicant may convey its interest in a program, project, or
15 activity to a successor. The department shall contract with
16 the qualified successor in interest of the original obligor for
17 repayment of the loan together with any interest thereon and for
18 succession to its rights and obligations in any contract with the
19 department.

20 (5) The state shall have a lien upon a program,
21 project, or activity constructed, improved, or renovated with
22 money from the Water Sustainability Fund for the amount of the
23 loan together with any interest thereon. This lien shall attach to
24 all program, project, or activity facilities, equipment, easements,
25 real property, and property of any kind or nature in which the loan
26 recipient has an interest and which is associated with the program,
27 project, or activity. The department shall file a statement of the

1 lien, its amount, terms, and a description of the program, project,
2 or activity with the county register of deeds of each county in
3 which the program, project, or activity or any part thereof is
4 located. The county register of deeds shall record the lien and it
5 shall be indexed as other liens are required by law to be indexed.
6 The lien shall be valid until paid in full or otherwise discharged.
7 The lien shall be foreclosed in accordance with applicable state
8 law governing foreclosure of mortgages and liens. Any lien provided
9 for by this section may be subordinate to that which secures
10 federal assistance or other secured assistance received on the same
11 program, project, or activity.

12 Sec. 9. In order to develop Nebraska's water resources,
13 the department, using the process provided for in subsection (4) of
14 section 6 of this act, and with the approval of the commission, may
15 acquire interests in water and related land resources projects in
16 the name of the state utilizing the Water Sustainability Fund. Such
17 use of the fund shall be made when the public benefits obtained
18 from the projects or a part thereof are statewide in nature and
19 when associated costs are determined to be more appropriately
20 financed by other than a local organization. Such use of the
21 fund may be made upon the determination by the department and
22 the commission that such acquisition is appropriate under sections
23 3 to 10 of this act. The department, with the approval of the
24 commission, may also acquire interests in water resource projects
25 in the name of the state to meet future demands for usable water.
26 Such water resource projects may include, but not be limited to,
27 the construction of dams and reservoirs to provide surplus water

1 storage capacity for municipal and industrial water demands and for
2 other projects to assure an adequate quantity of usable water. In
3 furtherance of these goals the department may contract with the
4 federal government or any of its agencies or departments for the
5 inclusion of additional water supply storage space behind existing
6 or proposed structures.

7 Sec. 10. The Appropriations Committee of the Legislature
8 shall, beginning with the FY2019-21 biennial budget review process,
9 conduct a biennial analysis of the financial status of the Water
10 Sustainability Fund, including a review of the committed and
11 uncommitted balance of the fund and the financial impact of pending
12 programs, projects, or activities. The committee shall base its
13 recommendation for transfers to the Water Sustainability Fund upon
14 information provided in the review process.

15 Sec. 11. Section 46-701, Reissue Revised Statutes of
16 Nebraska, is amended to read:

17 46-701 Sections 46-701 to 46-754 and section 13 of this
18 act shall be known and may be cited as the Nebraska Ground Water
19 Management and Protection Act.

20 Sec. 12. Section 46-715, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 46-715 (1)(a) Whenever the Department of Natural
23 Resources has designated a river basin, subbasin, or reach as
24 overappropriated or has made a final determination that a river
25 basin, subbasin, or reach is fully appropriated, the natural
26 resources districts encompassing such river basin, subbasin, or
27 reach and the department shall jointly develop an integrated

1 management plan for such river basin, subbasin, or reach. The plan
2 shall be completed, adopted, and take effect within three years
3 after such designation or final determination unless the department
4 and the natural resources districts jointly agree to an extension
5 of not more than two additional years.

6 (b) A natural resources district encompassing a river
7 basin, subbasin, or reach that has not been designated as
8 overappropriated or has not been finally determined to be
9 fully appropriated may, jointly with the department, develop an
10 integrated management plan for such river basin, subbasin, or
11 reach located within the district. The district shall notify the
12 department of its intention to develop an integrated management
13 plan which shall be developed and adopted according to sections
14 46-715 to 46-717 and subsections (1) and (2) of section 46-718. The
15 objective of an integrated management plan under this subdivision
16 is to manage such river basin, subbasin, or reach to achieve
17 and sustain a balance between water uses and water supplies for
18 the long term. If a district develops an integrated management
19 plan under this subdivision and the department subsequently
20 determines the affected river basin, subbasin, or reach to be fully
21 appropriated, the department and the affected natural resources
22 district may amend the integrated management plan.

23 (2) In developing an integrated management plan, the
24 effects of existing and potential new water uses on existing
25 surface water appropriators and ground water users shall be
26 considered. An integrated management plan shall include the
27 following: (a) Clear goals and objectives with a purpose of

1 sustaining a balance between water uses and water supplies so that
2 the economic viability, social and environmental health, safety,
3 and welfare of the river basin, subbasin, or reach can be achieved
4 and maintained for both the near term and the long term; (b)
5 a map clearly delineating the geographic area subject to the
6 integrated management plan; (c) one or more of the ground water
7 controls authorized for adoption by natural resources districts
8 pursuant to section 46-739; (d) one or more of the surface water
9 controls authorized for adoption by the department pursuant to
10 section 46-716; and (e) a plan to gather and evaluate data,
11 information, and methodologies that could be used to implement
12 sections 46-715 to 46-717, increase understanding of the surface
13 water and hydrologically connected ground water system, and test
14 the validity of the conclusions and information upon which the
15 integrated management plan is based. The plan may also provide for
16 utilization of any applicable incentive programs authorized by law.
17 Nothing in the integrated management plan for a fully appropriated
18 river basin, subbasin, or reach shall require a natural resources
19 district to regulate ground water uses in place at the time of
20 the department's preliminary determination that the river basin,
21 subbasin, or reach is fully appropriated, unless such regulation is
22 necessary to carry out the goals and objectives of a basin-wide
23 plan pursuant to section 13 of this act, but a natural resources
24 district may voluntarily adopt such regulations. The applicable
25 natural resources district may decide to include all water users
26 within the district boundary in an integrated management plan.

27 (3) In order to provide a process for economic

1 development opportunities and economic sustainability within a
2 river basin, subbasin, or reach, the integrated management plan
3 shall include clear and transparent procedures to track depletions
4 and gains to streamflows resulting from new, retired, or other
5 changes to uses within the river basin, subbasin, or reach. The
6 procedures shall:

7 (a) Utilize generally accepted methodologies based on the
8 best available information, data, and science;

9 (b) Include a generally accepted methodology to be
10 utilized to estimate depletions and gains to streamflows, which
11 methodology includes location, amount, and time regarding gains to
12 streamflows as offsets to new uses;

13 (c) Identify means to be utilized so that new uses will
14 not have more than a de minimis effect upon existing surface water
15 users or ground water users;

16 (d) Identify procedures the natural resources district
17 and the department will use to report, consult, and otherwise
18 share information on new uses, changes in uses, or other activities
19 affecting water use in the river basin, subbasin, or reach;

20 (e) Identify, to the extent feasible, potential water
21 available to mitigate new uses, including, but not limited
22 to, water rights leases, interference agreements, augmentation
23 projects, conjunctive use management, and use retirement;

24 (f) Develop, to the extent feasible, an outline of
25 plans after consultation with and an opportunity to provide
26 input from irrigation districts, public power and irrigation
27 districts, reclamation districts, municipalities, other political

1 subdivisions, and other water users to make water available for
2 offset to enhance and encourage economic development opportunities
3 and economic sustainability in the river basin, subbasin, or reach;
4 and

5 (g) Clearly identify procedures that applicants for new
6 uses shall take to apply for approval of a new water use and
7 corresponding offset.

8 Nothing in this subsection shall require revision or
9 amendment of an integrated management plan approved on or before
10 August 30, 2009.

11 (4) The ground water and surface water controls proposed
12 for adoption in the integrated management plan pursuant to
13 subsection (1) of this section shall, when considered together
14 and with any applicable incentive programs, (a) be consistent
15 with the goals and objectives of the plan, (b) be sufficient to
16 ensure that the state will remain in compliance with applicable
17 state and federal laws and with any applicable interstate water
18 compact or decree or other formal state contract or agreement
19 pertaining to surface water or ground water use or supplies,
20 and (c) protect the ground water users whose water wells are
21 dependent on recharge from the river or stream involved and
22 the surface water appropriators on such river or stream from
23 streamflow depletion caused by surface water uses and ground water
24 uses begun, in the case of a river basin, subbasin, or reach
25 designated as overappropriated or preliminarily determined to be
26 fully appropriated in accordance with section 46-713, after the
27 date of such designation or preliminary determination.

1 (5) (a) In any river basin, subbasin, or reach that is
2 designated as overappropriated, when the designated area lies
3 within two or more natural resources districts, the department and
4 the affected natural resources districts shall jointly develop a
5 basin-wide plan for the area designated as overappropriated. Such
6 plan shall be developed using the consultation and collaboration
7 process described in subdivision (b) of this subsection, shall
8 be developed concurrently with the development of the integrated
9 management plan required pursuant to subsections (1) through (4) of
10 this section, and shall be designed to achieve, in the incremental
11 manner described in subdivision (d) of this subsection, the goals
12 and objectives described in subsection (2) of this section. The
13 basin-wide plan shall be adopted after hearings by the department
14 and the affected natural resources districts.

15 (b) In any river basin, subbasin, or reach designated
16 as overappropriated and subject to this subsection, the department
17 and each natural resources district encompassing such river basin,
18 subbasin, or reach shall jointly develop an integrated management
19 plan for such river basin, subbasin, or reach pursuant to
20 subsections (1) through (4) of this section. Each integrated
21 management plan for a river basin, subbasin, or reach subject
22 to this subsection shall be consistent with any basin-wide plan
23 developed pursuant to subdivision (a) of this subsection. Such
24 integrated management plan shall be developed after consultation
25 and collaboration with irrigation districts, reclamation districts,
26 public power and irrigation districts, mutual irrigation companies,
27 canal companies, and municipalities that rely on water from

1 within the affected area and that, after being notified of the
2 commencement of the plan development process, indicate in writing
3 their desire to participate in such process. In addition, the
4 department or the affected natural resources districts may include
5 designated representatives of other stakeholders. If agreement
6 is reached by all parties involved in such consultation and
7 collaboration process, the department and each natural resources
8 district shall adopt the agreed-upon integrated management plan. If
9 agreement cannot be reached by all parties involved, the integrated
10 management plan shall be developed and adopted by the department
11 and the affected natural resources district pursuant to sections
12 46-715 to 46-718 or by the Interrelated Water Review Board pursuant
13 to section 46-719.

14 (c) Any integrated management plan developed under
15 this subsection shall identify the overall difference between
16 the current and fully appropriated levels of development. Such
17 determination shall take into account cyclical supply, including
18 drought, identify the portion of the overall difference between the
19 current and fully appropriated levels of development that is due
20 to conservation measures, and identify the portions of the overall
21 difference between the current and fully appropriated levels of
22 development that are due to water use initiated prior to July 1,
23 1997, and to water use initiated on or after such date.

24 (d) Any integrated management plan developed under this
25 subsection shall adopt an incremental approach to achieve the goals
26 and objectives identified under subdivision (2)(a) of this section
27 using the following steps:

1 (i) The first incremental goals shall be to address the
2 impact of streamflow depletions to (A) surface water appropriations
3 and (B) water wells constructed in aquifers dependent upon recharge
4 from streamflow, to the extent those depletions are due to water
5 use initiated after July 1, 1997, and, unless an interstate
6 cooperative agreement for such river basin, subbasin, or reach is
7 no longer in effect, to prevent streamflow depletions that would
8 cause noncompliance by Nebraska with such interstate cooperative
9 agreement. During the first increment, the department and the
10 affected natural resources districts shall also pursue voluntary
11 efforts, subject to the availability of funds, to offset any
12 increase in streamflow depletive effects that occur after July 1,
13 1997, but are caused by ground water uses initiated prior to such
14 date. The department and the affected natural resources districts
15 may also use other appropriate and authorized measures for such
16 purpose;

17 (ii) The department and the affected natural resources
18 districts may amend an integrated management plan subject to this
19 subsection (5) as necessary based on an annual review of the
20 progress being made toward achieving the goals for that increment;

21 (iii) During the ten years following adoption of an
22 integrated management plan developed under this subsection (5)
23 or during the ten years after the adoption of any subsequent
24 increment of the integrated management plan pursuant to subdivision
25 (d) (iv) of this subsection, the department and the affected natural
26 resources district shall conduct a technical analysis of the
27 actions taken in such increment to determine the progress towards

1 meeting the goals and objectives adopted pursuant to subsection (2)
2 of this section. The analysis shall include an examination of (A)
3 available supplies and changes in long-term availability, (B) the
4 effects of conservation practices and natural causes, including,
5 but not limited to, drought, and (C) the effects of the plan
6 on reducing the overall difference between the current and fully
7 appropriated levels of development identified in subdivision (5)(c)
8 of this section. The analysis shall determine whether a subsequent
9 increment is necessary in the integrated management plan to meet
10 the goals and objectives adopted pursuant to subsection (2) of this
11 section and reduce the overall difference between the current and
12 fully appropriated levels of development identified in subdivision
13 (5)(c) of this section;

14 (iv) Based on the determination made in subdivision
15 (d)(iii) of this subsection, the department and the affected
16 natural resources districts, utilizing the consultative and
17 collaborative process described in subdivision (b) of this
18 subsection, shall if necessary identify goals for a subsequent
19 increment of the integrated management plan. Subsequent increments
20 shall be completed, adopted, and take effect not more than ten
21 years after adoption of the previous increment; and

22 (v) If necessary, the steps described in subdivisions
23 (d)(ii) through (iv) of this subsection shall be repeated until
24 the department and the affected natural resources districts agree
25 that the goals and objectives identified pursuant to subsection
26 (2) of this section have been met and the overall difference
27 between the current and fully appropriated levels of development

1 identified in subdivision (5)(c) of this section has been addressed
2 so that the river basin, subbasin, or reach has returned to a fully
3 appropriated condition.

4 (6) In any river basin, subbasin, or reach that is
5 designated as fully appropriated or overappropriated and whenever
6 necessary to ensure that the state is in compliance with an
7 interstate compact or decree or a formal state contract or
8 agreement, the department, in consultation with the affected
9 districts, shall forecast on an annual basis the maximum amount
10 of water that may be available from streamflow for beneficial use
11 in the short term and long term in order to comply with the
12 requirement of subdivision (4)(b) of this section. This forecast
13 shall be made by January 1, 2008, and each January 1 thereafter.

14 Sec. 13. This section shall apply notwithstanding any
15 other provision of the Nebraska Ground Water Management and
16 Protection Act.

17 (1) If a river basin as described in subdivision
18 (2)(a) of section 2-1504 includes three or more natural resources
19 districts that, pursuant to subdivision (1)(a) of section 46-715,
20 have been or are required to develop an integrated management plan
21 for all or substantially all (eighty-five percent) of the district,
22 such natural resources districts shall, jointly with the department
23 and the natural resources districts within the same basin, develop
24 and adopt a basin-wide plan for the areas of a basin, subbasin, or
25 reach determined by the department to have hydrologically connected
26 water supplies, except that any natural resources district that has
27 developed and implemented a basin-wide plan pursuant to subsection

1 (5) of section 46-715 shall not be affected by this section.
2 If deemed appropriate by the department and the affected natural
3 resources districts, the basin-wide plan may combine two or more
4 river basins.

5 (2) An integrated management plan developed under
6 subdivision (1)(a) or (b) of section 46-715 shall ensure such
7 integrated management plan is consistent with any basin-wide
8 plan developed pursuant to this section. However, an integrated
9 management plan may implement additional incentive programs or
10 controls pursuant to section 46-739, if the programs and controls
11 are consistent with the basin-wide plan.

12 (3) A basin-wide plan shall be completed, adopted, and
13 take effect within three years after the effective date of this
14 act, unless the department and the natural resources districts
15 jointly agree to an extension of not more than an additional two
16 years.

17 (4) A basin-wide plan shall (a) have clear goals and
18 objectives with a purpose of sustaining a balance between water
19 uses and water supplies so that the economic viability, social
20 and environmental health, safety, and welfare of the river basin,
21 subbasin, or reach can be achieved and maintained for both the
22 near term and the long term, (b) ensure that compliance with any
23 interstate compact or decree, or other formal state contract or
24 agreement or applicable state or federal law is maintained, and (c)
25 set forth a timeline to meet the goals and objectives as required
26 under this subsection, but in no case shall a timeline exceed
27 thirty years after the effective date of this act.

1 (5) (a) A basin-wide plan developed under this section
2 shall utilize the best generally-accepted methodologies and
3 available information, data, and science to evaluate the effect
4 of existing uses of hydrologically connected water on existing
5 surface water and ground water users. The plan shall include a
6 process to gather and evaluate data, information, and methodologies
7 to increase understanding of the surface water and hydrologically
8 connected ground water system within the basin, subbasin, or
9 reach and test the validity of the conclusions, information, and
10 assumptions upon which the plan is based.

11 (b) A basin-wide plan developed under this section shall
12 include a schedule indicating the end date by which the stated
13 goals and objectives are to be achieved and the management actions
14 to be taken to achieve the goals and objectives. To ensure that
15 reasonable progress is being made toward achieving the final
16 goals and objectives of the plan, the schedule shall also include
17 measurable hydrologic objectives and intermediate dates by which
18 the objectives are expected to be met and monitoring plans to
19 measure the extent to which the objectives are being achieved. Such
20 intermediate objectives shall be established in a manner that, if
21 achieved on schedule, will provide a reasonable expectation that
22 the goals of the plan will be achieved by the established end date.

23 (c) A basin-wide plan shall be developed using a
24 consultation and collaboration process involving representatives
25 from irrigation districts, reclamation districts, public power and
26 irrigation districts, mutual irrigation companies, canal companies,
27 ground water users, range livestock owners, the Game and Parks

1 Commission, and municipalities that rely on water from within the
2 affected area and that, after being notified of the commencement
3 of the plan development process, indicate in writing their desire
4 to become an official participant in such process. The department
5 and affected natural resources districts shall involve official
6 participants in formulating, evaluating, and recommending plans
7 and management actions and work to reach an agreement among all
8 official participants involved in a basin-wide plan. In addition,
9 the department or the affected natural resources districts may
10 include designated representatives of other stakeholders. If
11 agreement is reached by all parties involved in such consultation
12 and collaboration process, the department and the affected natural
13 resources districts shall adopt the agreed-upon basin-wide plan. If
14 agreement cannot be reached by all parties involved, the basin-wide
15 plan shall be developed and adopted by the department and the
16 affected natural resources districts or by the Interrelated Water
17 Review Board pursuant to section 46-719.

18 (d) Within five years after the adoption of the
19 basin-wide plan, and every five years thereafter, the department
20 and affected natural resources districts shall conduct a technical
21 analysis of the actions taken in a river basin to determine the
22 progress towards meeting the goals and objectives of the plan. The
23 analysis shall include an examination of (i) available supplies,
24 current uses, and changes in long-term water availability, (ii) the
25 effects of conservation practices and natural causes, including,
26 but not limited to, drought, and (iii) the effects of the plan
27 in meeting the goal of sustaining a balance between water uses

1 and water supplies. The analysis shall determine if changes or
2 modifications to the basin-wide plan are needed to meet the goals
3 and objectives pursuant to subdivision (a) of this subsection. The
4 department and affected natural resources districts shall present
5 the results of the analysis and any recommended modifications to
6 the plan at a public meeting and shall provide for at least a
7 thirty-day public comment period before holding a public hearing on
8 the recommended modifications. The department shall submit a report
9 to the Legislature of the results of this analysis and the progress
10 made under the basin-wide plan. The report shall be submitted
11 electronically. Any official participant or stakeholder may submit
12 comments to the department and affected natural resources districts
13 on the final basin-wide plan adopted by the department and affected
14 natural resources districts, which shall be made a part of the
15 report to the Legislature.

16 (e) Before adoption of a basin-wide plan, the department
17 and affected natural resources districts shall schedule at least
18 one public hearing to take testimony on the proposed plan. Any such
19 hearings shall be held in reasonable proximity to the area affected
20 by the plan. Notice of hearings shall be published as provided in
21 section 46-743. All interested persons may appear at any hearings
22 and present testimony or provide other evidence relevant to the
23 issues under consideration. Within sixty days after the final
24 hearing, the department and affected natural resources districts
25 shall jointly determine whether to adopt the plan.

26 (f) The department and the affected natural resources
27 districts may utilize, when necessary, the Interrelated Water

1 Review Board process provided in section 46-719 for disputes
2 arising from developing, implementing, and enforcing a basin-wide
3 plan developed under this section.

4 2. On page 1, line 6, strike "6" and insert "10".

5 3. On page 2, line 20, strike "and" and show as stricken;
6 and in line 22 after "Resources" insert "; and

7 (13) Combined sewer overflow project means a municipal
8 project to reduce overflows from a combined sewer system pursuant
9 to a long-term control plan approved by the Department of
10 Environmental Quality".

11 4. On page 6, line 15, after "areas" insert ", and
12 represent, to the extent possible, the racial and ethnic diversity
13 of the state"; and strike lines 16 through 23 and insert

14 "(6) After the members have been appointed as required
15 under this section, the commission shall revise or adopt and
16 promulgate rules and regulations as necessary to administer the
17 Water Sustainability Fund pursuant to sections 3 to 10 of this
18 act."

19 5. Renumber the remaining sections and correct internal
20 references and the repealer accordingly.